IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 1563 OF 2006

Mrs. Sulabha R. Deshpande & Anr. ..Petitioners

versus

State of Maharashtra & Anr. ..Respondents

Mr. U. P. Warunjikar for the Petitioners.

Mrs. S. D. Shinde, APP for the Respondents - State.

CORAM : D. G. DESHPANDE, &
S. A. BOBDE, JJ.

DATE : 10TH AUGUST, 2006

P.C. :

1. Heard Advocate for the Petitioners and learned APP for the State.

2. By this petition, the petitioners want that FIR lodged against the petitioners under the provisions of Bombay Money Lenders Act, should be quashed. The show cause notice under the said Act, which is Exhibit 'A' to the petition, was given to

the petitioners. Their house was raided, a panchnama was prepared. Copy of the panchnama is anenxed at Exhibit 'B'. Scores of documents executed between the petitioners and Pandari Mannar Reddy, including the stamp papers etc. were recovered from the premises of the petitioners. There appears to be as many as 26 documents, so far recovered. Thereafter, FIR came to be lodged against the petitioners, and, now, the petitioners contend that since Pandari Mannar Reddy has filed an affidavit supporting their case that these are not the loan transactions, this Court, should, at this stage of admission of the petition, accept the defence of the petitioners and quash the FIR.

3. Mr. Warunjikar, also drew our attention to Section 3 of the Bombay Money Lenders Act which lays down that no court shall take cognizance unless there is a previous sanction given by the Registrar. Mr. Warunjikar contended that so far no sanction has been obtained, and, therefore, he wanted us to believe that that section operate as a bar against the police in taking cognizance of the offence and investigation.

4. Before Mr. Warunjikar stated his full-fledged argument, we had given him opportunity by explaining that we cannot interfere in the investigation in view of the facts narrated in the petition and if he wanted an order then, our findings will be binding on all the time to come to against the Petitioners. He chose to get a detailed order, from us.

5. We do not find any substance whatsoever in the arguments of Mr. Warunjikar. Recovery of as many as i.e. more than two dozens of the documents, make out a strong prima facie case against the petitioners that they are indulging in money lending. It may be that in order to defend them, Pandari Mannar Reddy and others have filed affidavit, but, by reading in between the lines, it is clear to us that the Authorities who have lodged FIR should also find out as to whether the said Pandari Mannar Reddy is doing money lending business along with the petitioners or independently after taking so-called hand loans from the petitioners. There is absolutely no substance in this petition. It is nothing but an attempt to scuttle the investigation at the premature investigation. There

is also no substance in the objections raised under Section 3 of The Bombay Money Lenders Act. Therefore, this petition is dismissed. We clarify that the concerned Authorities to take note of our observations while taking action against the petitioners.

(D.G. DESHPANDE, J.)

(S.A. BOBDE, J.)